

State of Maine  
Board of Licensure in Medicine  
137 SHS, 161 Capitol Street  
Augusta, Maine 04333-0137  
Meeting of April 9, 2013  
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**State of Maine  
Board of Licensure in Medicine  
137 SHS, 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of April 9, 2013**

**Board Members Present**

Gary R. Hatfield, M.D, Chairman  
Maroulla Gleaton, M.D., Board Secretary  
David R. Andrews, M.D.  
Louisa Barnhart, M.D.  
Cheryl Clukey  
David H. Dumont, M.D  
Dana Dyer  
David D. Jones, M.D.  
David Nyberg, Ph.D.

**Board Staff Present**

Randal C. Manning, Executive Director  
Mark C. Cooper, M.D., Medical Director  
Jean M. Greenwood, Administrative Assistant  
Dan Sprague, Assistant Executive Director  
Tim Terranova, Consumer Assistant

**Attorney General's Office Staff**

Dennis Smith, Assistant Attorney General  
Detective James Gioia

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The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions are taken on all matters discussed during executive session. Discussions are projected on a screen by PowerPoint projection.

**PUBLIC SESSIONS**

8:58 a.m. – 9:04 a.m.  
9:05 a.m. – 9:06 a.m.  
11:11 a.m. - 11:19 a.m.  
11:19 a.m. - 11:45 a.m.  
12:13 p.m. - 12:45 p.m.  
12:45 p.m. – 12:53  
12:53 p.m. – 1:00 p.m.  
1:54 p.m. - 2:15 p.m.  
1:54 p.m. – 3:53 p.m.  
4:10 p.m. – 5:00 p.m.

**EXECUTIVE SESSION**

9:04 a.m. – 9:05 a.m.  
9:06 a.m. – 11:11 a.m.  
11:45 a.m. – 12:13 p.m.  
1:00 p.m. – 1:54 p.m.  
3:53 p.m. – 4:10 p.m.

**PURPOSE**

Call to Order  
Public Session  
Recess  
Public Session  
Noon Recess  
Public Session  
Recess  
Recess  
Public Session  
Public Session/Adjournment

Complaint  
Complaints  
Complaints  
Informal Conference  
Advice of Counsel

**I. Call to Order**

Dr. Hatfield called the meeting to order at 8:58 a.m.

- A. Amendments to Agenda
  - 1. CR 12-162 Kevin Kendall, M.D. (Consent Agreement)
  - 2. CR 12-177 Deep S. Acharya, M.D. (Consent Agreement)
- B. Scheduled Agenda Items
  - 9:00 a.m. Agenda Work Group

The Agenda Work Group was reviewed for the newer members of the Board.

11:00 a.m. CR 12-63 - Informal Conference (See Section IV)

## Executive Session

### II. Complaints

- 1. CR12-106 Mejah S. Soong, M.D.

In Executive Session the Board moved to unset the previously ordered Adjudicatory Hearing.

In Public Session Dr. Dumont moved to allow Dr. Soong leave to withdraw her license application. Dr. Gleaton seconded the motion, which passed unanimously.

- 2. CR12-172

Dr. Dumont moved to investigate further CR12-172. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

- 3. CR12-201

Dr. Andrews moved to hold an Informal Conference in the matter of CR12-201. Dr. Gleaton seconded the motion, which passed unanimously.

- 4. CR12-203

Dr. Dumont moved to investigate further CR12-203. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Barnhart recused.

- 5. CR13-4

Dr. Jones moved to dismiss CR13-4. Dr. Dumont seconded the motion, which passed 6-0-0-3 with Ms. Clukey, Dr. Barnhart, and Dr. Gleaton recused.

The complainant alleges that his care was unprofessional and incompetent, that he was forced to receive counseling, that he was treated inappropriately by a medical assistant and that he was discharged unfairly from the practice by the physician in this complaint. There were also multiple other issues that the complainant was unhappy with. The

complainant was a complex patient who received an enormous amount of attention from this practice, both through office visits, and with phone calls and meetings. The Board would agree that communication was not always clear and the patient's understanding of expectations or rules was often confused, but overall this patient's care was exceptional, considering the amount of time he demanded from the practice.

6. CR12-202

Dr. Andrews moved to hold an Informal Conference in the matter of CR12-202. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Hatfield recused.

7. CR12-205

Dr. Dumont moved to dismiss CR12-205. Dr. Andrews seconded the motion, which passed 8-0-0-1 with Dr. Hatfield recused.

This case involves a complaint by a patient who alleges her new physician changed her long-standing prescription without examining or talking to her. When the patient could not come in for a mandated drug test she had her medication discontinued and then could not obtain alternative treatment in a timely fashion.

Review of the patient's chart and of the physician's reply shows appropriate decision making by the physician, but an inadvertent lapse in communication by office staff created a misunderstanding. The doctor apologizes for this lapse and has taken steps in the office to prevent the same problem from occurring in the future. The physician also acknowledges frustration with the prior authorization system, which was required for prescribing and obtaining alternative medications for this patient. The physician shows she made reasonable efforts to meet the needs of this patient and her care was appropriate.

8. CR12-239

Dr. Gleaton moved to dismiss CR12-239. Mr. Dyer seconded the motion, which passed unanimously.

The patient complains that the physician tapered and discontinued medications for his back pain and anxiety. Medical records indicate the patient was not forthcoming about his history of drug use and abuse, and failed to establish a medical basis for the alleged back pain. The physician provided a convincing rationale for tapering and discontinuing certain medications, and he offered a number of alternative therapies and referrals, all of which the patient refused. While the patient was unhappy with the physician's decisions, the medical care was provided without fault.

9. CR12-229

Dr. Barnhart moved to investigate further CR12-229. Dr. Gleaton seconded the motion, which passed unanimously.

10. CR12-230

Ms. Clukey moved to dismiss CR12-230. Dr. Jones seconded the motion, which passed unanimously.

The complainant feels the physician was practicing outside the scope of his specialty when he reviewed his disability claim. The physician states he contacted the patient's own physician in order to obtain his opinion, as this is his role as an insurance consultant; he himself does not render opinions on the cases he reviews. The Board feels that the physician was acting appropriately in his role. The complainant has refused to release insurance records for the Board to review.

11. CR13-11

Dr. Gleaton moved to dismiss CR13-11. Mr. Dyer seconded the motion, which passed unanimously.

A patient complained about the clinical competency of her retinal ophthalmologist. Review of the records indicates that the patient had long-standing myopic degeneration involving the macula, which then went on to develop a well-known sight threatening complication of choroidal neovascularization. There is documented evidence that quality medical care was provided by the doctor and his retinal colleague who currently cares for the patient. The physician expresses appropriate compassion for the patient's medical condition that compromises her sight.

12. CR12-211 John J. Walsh, Jr., M.D.

Dr. Jones moved to dismiss CR12-211 John J. Walsh, Jr., M.D. with a Letter of Guidance. Dr. Andrews seconded the motion, which passed unanimously.

The complainant states that his HIPPA rights were violated when, on arrival at the physician's office, he had to state his name out loud in front of nine patients in the waiting room and had to have his vital signs done and noted out loud in front of these same nine patients. The patient also states that the medical report generated from his office visit describes an exam that did not occur. The Board investigated further and questioned the physician about the exam and documentation.

The physician states that he was performing an independent medical examination and was functioning as a consultant to the authority requesting the independent medical examination, not as the complainant's physician. As a consultant, he was answering specific questions posed by the requester of the exam. The physician notes that this type of exam is very different from other examinations experienced by the complainant. The physician states he did all of the examinations documented in his report, and is unable to

explain why the complainant does not remember them. The examiner did note that his role in this visit was to determine if there had been any change in previously documented findings in a workman's compensation case.

The Board was unable to determine the accuracy of some of the statements made by either party in this complaint, and some are of considerable concern. It is clear that the initial intake and vital signs were done in front of other patients. The complaint is dismissed with a letter of guidance concerning patient's privacy rights.

Privacy should be offered to a patient when discussion of any aspect of the appointment occurs, especially when the patient's name is spoken, and vital signs or intake history should occur in a private area.

13. CR12-238

Ms. Clukey moved to dismiss CR12-238. Dr. Jones seconded the motion, which passed 7-0-0-2 with Mr. Dyer and Dr. Barnhart recused.

The complainant alleges she was discharged from the physician's practice because she was "too complicated" and complains her medical issues were not being treated. The physician explains her medical relationship with the patient, the difficulty working with the patient while attempting to treat her medical issues and her rationale for discharge from the practice.

The physician made every attempt to accommodate this patient by offering many medical referrals, including psychologists, and also working with the patient's caseworker. The medical care provided was without fault.

14. CR13-2

Mr. Dyer moved to dismiss CR13-2. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Gleaton recused.

The patient states the doctor made an incorrect diagnosis, failed to discuss this diagnosis with him, and then entered it into his electronic medical record. The patient did not provide authorization for records so the Board cannot determine the validity of the complaint.

15. CR13-7

Dr. Barnhart moved to dismiss CR13-7. Dr. Gleaton seconded the motion, which passed unanimously.

Part of the family alleges the patient's current health concerns are due to neglectful care by her previous physician. Review of the records reveals careful preventive care, appropriate care of acute issues, and consideration of input from family, community, and



consultants. There is a well-documented discussion about preventive medications for the patient's current condition. The physician is required to liaison with the next of kin until alternative legal arrangements are established, and frequent contact with local family was documented repeatedly in this case. Family disagreement was noted in the records. There is no evidence in the record, or in the records of other physicians involved, that her current major medical concerns had presented earlier as complaints or in the review of systems. Frequent assertive follow-up occurred for the most significant risk factor in her current condition. The documentation in the record shows appropriate care.

16. CR13-12

Dr. Andrews moved to investigate further CR13-12. Mr. Dyer seconded the motion, which passed unanimously.

17. Intentionally Left Blank

III. Assessment & Direction

18. AD13-15 (CR13-64).

Dr. Jones moved to issue a complaint in the matter of AD13-15 (CR13-64). Dr. Gleaton seconded the motion, which passed unanimously.

19. AD13-40 (CR13-65)

Dr. Dumont moved to issue a complaint in the matter of AD13-40 (CR13-65). Dr. Gleaton seconded the motion, which passed unanimously.

20. AD13-41

Dr. Jones moved to file AD13-41. Dr. Andrews seconded the motion, which passed unanimously.

21. AD13-50 (CR13-66)

Dr. Gleaton moved to issue a complaint in the matter of AD13-50 (CR13-66). Dr. Dumont seconded the motion, which passed unanimously

22. AD13-51

Dr. Jones moved to file AD13-51. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Barnhart recused.

23. AD13-53 (CR13-67)

Dr. Gleaton moved to issue a complaint in the matter of AD13-53 (CR13-67), and to waive current policy and allow the license to lapse. Dr. Jones seconded the motion, which passed unanimously.

- 24. Intentionally Left Blank
- 25. Complaint Status Report (FYI)
- 26. Consumer Assistant Feedback (None)
- 27. Physician Feedback (None)

Noon Recess

IV. Informal Conference 1:00 p.m.

A. CR12-102

Dr. Andrews moved to table CR12-102 with a review in six months, including a chart review of patients who have been treated with controlled substances, and receipt of a list of CME completed. Mr. Dumont seconded the motion, which passed 8-1-0-0

Public Session

V. Minutes of March 12, 2013

Ms. Clukey moved to approve the minutes of March 12, 2013. Dr. Andrews seconded the motion, which passed unanimously.

VI. Board Orders & Consent Agreement Monitoring & Approval

A. Board Orders

- 1. CR12-126 Michael B. Loewinger, M.D. [See Attachment A]

Rebekah Smith, Esq., Hearing Officer was present via conference telephone.

Dr. Nyberg moved to approve a Consent Agreement in the matter of CR12-126 Michael B. Loewinger, M.D. including the letter of guidance. Ms. Clukey seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

B. Consent Agreement Monitoring and Approval

- 1. CR11-509 Patrick S. Carson, P.A.-C. [See Attachment B]

Dr. Dumont moved to amend Mr. Carson's Consent Agreement to clarify that he shall see his primary care provider twice a year with two reports to the Board, and to allow his LCSW to submit her reports in the same months as the MPHP reports are due. Dr. Jones seconded the motion, which passed 8-0-0-1, with Dr. Andrews recused.

2. CR08-09 Andrew J. Fletcher, M.D.

Dr. Gleaton moved to reduce urine screening to once monthly and counseling to once quarterly, while retaining the additional four random urine screens yearly in the matter of Dr. Fletcher. Dr. Nyberg seconded the motion, which passed 7-0-0-2 with Dr. Dumont and Dr. Jones recused.

3. CR12-22 Catherine A. Lockwood, M.D. [See Attachment C]

Dr. Nyberg moved to amend the Consent Agreement in the matter of Catherine A. Lockwood, M.D. Dr. Gleaton seconded the motion, which passed 8-1.

4. CR09-220 Linda C. Keniston, M.D. (PCP Approval - FYI)

5. CR12-162 Kevin Kendall, M.D.

Dr. Jones moved to approve the proposal for monitoring in the matter of CR 12-162 Kevin Kendall, M.D. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Hatfield recused.

6. CR12-177 Deep S. Acharya, M.D. [See Attachment D]

Ms. Clukey moved to approve a Consent Agreement in the matter of CR 12-177 Deep S. Acharya, M.D. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Dumont recused.

VII. Adjudicatory Hearing(s) (None)

VIII. Remarks of Chairman

- A. Agenda Workgroup Discussion (FYI)
- B. Lyme Disease Discussion (FYI)
- C. Medical Marijuana Discussion (FYI)

IX. Executive Director's Monthly Report

The Board accepted the report of the Executive Director.

- A. Complaint Status Report (FYI)
- B. Policy Review Subpoena Power

Dr. Gleaton moved to reaffirm the Board's policy regarding Subpoena Power. Dr. Andrews seconded the motion, which passed unanimously.

C. Case Review Process Discussion

D. PA Schedule II Renewal Process

X. Medical Director's Report

A. PMP Report

Dr. Cooper presented a PowerPoint discussion of the Prescription Monitoring Program.

XI. Remarks of Assistant Attorney General (FYI)

XII. Secretary's Report

A. List A

1. M.D. List A Licenses for Ratification

Dr. Jones moved to ratify Dr. Gleaton's approval of the Physicians M.D. List A. Dr. Dumont seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary Maroulla Gleaton, M.D., without reservation.

NAME	SPECIALTY	LOCATION
Arguedas-Brollo, Miguel R.	Gastroenterology	Brunswick
Band, Roger	Emergency Medicine	Bar Harbor
Beall, Jennifer K.	Internal Medicine	Portland
Behere, Aniruddh P.	Psychiatry	Rockport
Bisnauth, Linda D.	Psychiatry	Not Listed
Bogner, Edward W.	Family Practice	North Yarmouth
Bonza, Sarah H.	Family Medicine	Not Listed
Borst, Marilyn J.	Colon & Rectal Surgery	Lewiston
Brizuela, Miguel A.	OB/Gyn	Not Listed
Dugliss, Paul M.	Internal Medicine	Portland
Durning, Jr. Ronald B.	Internal Medicine	Bangor
Elazegui, Rozel D.	Family Medicine	Windham
Fischer, Gregory G.	Psychiatry/Neurology	Bangor
Garvey, Jennifer L.	Ophthalmology	Waterville
Godale, Heather R.	Emergency Medicine	Not Listed
Haller, Linda J.	OB/Gyn	Calais
Hocter, Jr., William J.	Psychiatry	Bangor
Jenis, Andrew D.	Emergency Medicine	Not Listed

Jones, John K.	Psychiatry	Bangor
Kakar, Kshitil	Surgery	Bangor
Kopchick, John H.	Urology	Not Listed
Madar, Merci G.	Emergency Medicine	Not Listed
Marshall, Jodi F.	Psychiatry	Lewiston
Miller, Jeremy S.	Pathology	Not Listed
Parnes, Aaron J.	Ophthalmology	Portland
Pruchnic, Timothy F.	Surgery of the Hand	Bangor
Romanowsky, Andrew M.	Internal Medicine	Not Listed
Rosenwasser, Tamzin A.	Dermatology	Not Listed
Rudloe, Isaac J.	Ophthalmology	Ellsworth
Saenz, Rebecca L.	Emergency Medicine	Not Listed
Sandhu, Kernjeet K.	Family Medicine	Not Listed
Sklizovic, Davor G.	Otolaryngology	Ellsworth
Taha, Assad	Surgery	Lewiston
Taylor, Robert L.	Psychiatry	Not Listed
Tilkemeier, Peter L.	Cardiovascular Disease	Augusta
Turcios, Rosa E.	Surgery	Lewiston
Wilson, Tara Dayle	Family Medicine	Telemedicine

## 2. P.A. List A Licenses for Ratification

Dr. Jones moved to ratify Dr. Gleaton's approval of the Physician Assistants on PA List A for licensure. Dr. Dumont seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by Board Secretary Maroulla Gleaton, M.D., without reservation.

NAME	LICENSE	PSP	LOCATION
Alysn Ludwig, P.A.-C	Active	David Burke, M.D.	Bangor
Timothy Pace, P.A.-C	Active	Joseph Scordino, M.D.	Rockport
Ian Perkins, P.A.-C	Active	Donato Sisto, M.D.	Portsmouth

## B. List B Applications for Individual Consideration

### 1. Charles A. Fotuchang, M.D.

The Licensure Committee moved to approve the license application of Charles A. Fotuchang, M.D. The motion passed unanimously.

### 2. Mejah S. Soong, M.D. See Complaint CR12-106 above.

### 3. Maria Arutyunyan, M.D.

The Licensure Committee moved to table the license application of Maria Arutyunyan, M.D. The motion passed unanimously.

Dr. Jones moved to issue a complaint for fraud in Dr. Arutyunyan's application for her Emergency License. Mr. Dyer seconded the motion, which passed unanimously.

4. Steven A. Kahill, M.D.

The Licensure Committee moved to approve the license application of Steven A. Kahill, M.D. The motion passed unanimously.

C. List C Applications for Reinstatement

1. List C Applications for Reinstatement

Dr. Jones moved to ratify Dr. Gleaton's approval of the license reinstatement applications of the Physicians on List C.

The following license reinstatement applications have been approved by Board Secretary Maroulla Gleaton, M.D., without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Gottlieb, Phillip D.	Psychiatry	Not Listed
Nattel, Daniel F.	Diagnostic Radiology	Kennebunk
Osborne, Isaac J.T.	Internal Medicine	Lincoln

2. List C Applications for Reinstatement for Individual Consideration

- a. Paul J. Davis, M.D.

The Licensure Committee moved to table the reinstatement application of Paul J. Davis, M.D. The motion passed 8-0-0-1 with Dr. Hatfield recused.

D. List D Withdrawals

1. List D (1) Withdraw License Application (None)
2. List D (2) Withdraw License from Registration

Dr. Jones moved to approve the licensees on List D (2) to withdraw from registration. Dr. Andrews seconded the motion, which passed unanimously.

The following physicians and physician assistants have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NO.</u>
Ballada, Viktor	MD16912
Dowling, Marie	MD18733
Hunyady, Agnes	MD17011
Jons, Christopher	MD18551
Kitz, Jessie	PA1250
Kuck, Klaus	MD6532
Lepak, Keith	MD18337
Pope, George	MD17449
Quinn, Julia	MD16768
Salcedo, Vivencio	MD11618
Shields, Daniel	MD4661
Tadwalkar, Vishwas	MD9774
Volkert, Janneke	MD18705

3. List D (3) Withdraw License from Registration - Individual Consideration (None)

E. List E Licenses to lapse by operation of law

The following physician and physician assistant licenses lapsed by operation of law effective April 7, 2013.

<u>NAME</u>	<u>LICENSE NO.</u>
Avidon, Glenn	MD16480
Badahman, Alhassan	MD15928
Best, Thomas	MD18642
Binder, Christian	MD16697
Braxton, John	MD14598
Eckard, Donald	MD17290
Garcia, Nicholas	MD16458
Glatstein, Isaac	MD15311
Gosh-Baker, D. John	MD12865
Hemingway, Diane	MD15698
Henneberry, Kyle	MD17402
Hernandez, Concepcion	MD11584
Holbrook, Edward	MD8587
Hristea, Brigitte	MD17304
Jain, Akshat	MD19254
Janas, Joann	MD18251
Keene, Candace	MD15491
Leven, Seymour	MD14485
Liu, Rose	MD16921
Marble, Kimberly	MD14955
McCandless, Brian	MD15884
McDougall, Virginia	MD15183

McGeough, John	MD8946
Mehta, Vipin	MD17242
Moore, Elisabeth	MD19111
Morris, Jennifer	MD15997
Nguyen, Khanh-Ha	MD18692
Rando, Joseph	MD5235
Rhodes, Louis	MD18275
Rusnack, Douglas	MD16512
Rusu, John	MD8184
Seybolt, Lorna	MD16120
Yang, Ovid Y.	MD5433

F. List F Licensees requesting to convert to active status (None)

G. List G Renewal applications for review

1. Preethi Venepalli, M.D.

The Licensure Committee moved to table the license application of Preethi Venepalli, M.D. The motion passed 9-0.

H. List H. Physician Assistant Schedule II Authority Requests for Ratification

1. Dr. Jones moved to ratify Dr. Gleaton's approval of the following renewal requests for Schedule II prescribing authority. Dr. Andrews seconded the motion, which passed 8-0-0-1 with Dr. Dumont recused.

The following renewal requests for Schedule II prescribing authority have been approved by Board Secretary Maroulla Gleaton M.D.

NAME	PSP	LOCATION
Sheila Boese, P.A.-C	Larry Hopperstead, M.D.	Lewiston
Kimberly Budd, P.A.-C	Larry Hopperstead, M.D.	Lewiston
Alison Chabot, P.A.-C	Benjamin Huffard, M.D.	Portland
Joel Chretien, P.A.-C	Eric Hoffman, M.D.	Portland
Cheryl Corrao, P.A.-C	Shirley Frederick, M.D.	South Berwick
Kevin Curtis, P.A.-C	Joel Botler, M.D.	Portland
Daniel Dorsky, P.A.-C	Linda Glass, M.D.	Lewiston
Sebastien, Duclos, P.A.-C	Larry Hopperstead, M.D.	Lewiston
Melanie Dumont, P.A.-C	David McDermott, M.D.	Dover-Foxcroft
Denise Emple, P.A.-C	Douglas Brown, M.D.	Portland
Paul Evans, P.A.-C	George Babikian, M.D.	Falmouth
Danielle George, P.A.-C	Carmine Frumiento, M.D.	Lewiston
James Gillen, Jr., P.A.-C	Scott Buchanan, M.D.	Portland
Erika Hall, P.A.-C	David Preston, M.D.	N. Vassalboro
Jon Halterman, P.A.-C	Gregory Adey, M.D.	Portland



Tenielle Holste, P.A.-C	Lisa Nielsen, M.D.	Patten
Amelia Knowles, P.A.-C	William Hodge, M.D.	Bangor
Kristina Kramer, P.A.-C	Dirk Asherman, M.D.	Portland
Lauren LaBrecque, P.A.-C	Andrew Dionne, M.D.	Augusta
Antonio Landry, P.A.-C	Linda Glass, M.D.	Lewiston
Shawn McGlew, P.A.-C	Derrick Tooth, M.D.	Manchester
Brigham McKenney, P.A.-C	Brian McGrory, M.D.	Falmouth
Lara Melchionda, P.A.-C	Jeffrey Thurlow, M.D.	York
Gretchen Morrow, P.A.-C	C. Forrest West, III, M.D.	Albion
Craig Pedersen, P.A.-C	David Burke, M.D.	Bangor
Kimberly Perkins, P.A.-C	David Urquia, M.D.	Augusta
Mindy Pomerleau, P.A.-C	Michael Regan, M.D.	Auburn
Charles Roth, P.A.-C	Michael Binette, M.D.	Portland
Brad Schmeling, P.A.-C	David Burke, M.D.	Bangor
Melinda Schimmack, P.A.-C	Jamie Loggins, M.D.	Lewiston
Teri Schrock, P.A.-C	Torah Tomasi, M.D.	Lewiston
William Sheppard, P.A.-C	David McDermott, M.D.	Dover-Foxcroft
Nathaniel Sherman, P.A.-C	Mary Jo Fisher, M.D.	Augusta
Eric Smith, P.A.-C	David Johnson, M.D.	Biddeford
Amy Taisey, P.A.-C	Sarah Shubert, M.D.	Falmouth
Tori Thoreson, P.A.-C	Lisa Nielson, M.D.	Patten
Diana Wagman, P.A.-C	John T. Chance, M.D.	Portland
James Williams, P.A.-C	D. Kent Clark, M.D.	Belfast
Lena Witham, P.A.-C	John Klemperer, M.D.	Bangor

## 2. Applications for New Schedule II

Dr. Jones moved to ratify Dr. Gleaton's approval of the following requests for Schedule II Authority. Dr. Andrews seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by Board Secretary Maroulla Gleaton, M.D.

NAME	PSP	LOCATION
Brent Albright, P.A.-C	David Johnson, M.D.	Biddeford
Aaron Barnard, P.A.-C	John Thaller, M.D.	Augusta
Mary Bruce, P.A.-C	Gregory Leather, M.D.	Rockport
Kevin Curtis, P.A.-C	Joel Botler, M.D.	Portland
Paul Evans, P.A.-C	Stephen Kelly, M.D.	Portland
Melissa Michaud, P.A.-C	Scott Krammerer, M.D.	Waterville
Alysn Ludwig, P.A.-C	David Burke, M.D.	Bangor
Jed Jankowski, P.A.-C	Konrad Barth, M.D.	Scarborough
Brigham McKenney, P.A.-C	Brian McGrory, M.D.	Falmouth
Melissa Michaud, P.A.-C	Scott Kemmerer, M.D.	Waterville
Susan Motley, P.A.-C	Scott Kemmerer, M.D.	Waterville

William Newton, P.A.-C  
Timothy Pace, P.A.-C  
Ian Perkins, P.A.-C  
Paul Roberts, P.A.-C  
Susan Trafton, P.A.-C  
Joseph Schrader, P.A.-C  
William Simpson, P.A.-C

Benedict Farino, M.D.  
Joseph Scordino, M.D.  
Donato Sisto, M.D.  
Howard Jones, M.D.  
Andrew Hertler, M.D.  
Seth Blank, M.D.  
Richard Gramse, M.D.

Scarborough  
Rockport  
Portsmouth  
Belfast  
Augusta  
Portland  
Portland

XIII. Standing Committee Reports

A. Legislative & Regulatory Committee

Mr. Manning reviewed current legislation pertaining to the Board.

B. Physician Assistant Advisory Committee (Draft Minutes)

XIV. Board Correspondence (None)

XV. FYI

XVI. FSMB Material (None)


XVII. Other Business

Gordon Smith from Maine Medical Association announced two courses on prescription drug abuse. The first will be May 8<sup>th</sup> in Millinocket and the second will be on June 8<sup>th</sup> in Wells.

Mr. Smith also commented on current legislation.

XVIII. Adjournment 5:00 p.m.

Respectfully submitted,

  
Jean M. Greenwood  
Administrative Assistant  
Board Coordinator

## STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

In Re: Michael B. Loewinger, M.D.

Complaint No. CR12-126

)  
)  
)**DECISION AND ORDER****I. PROCEDURAL HISTORY**

Pursuant to the authority found in 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5), the State of Maine Board of Licensure in Medicine met in public session at its offices in Augusta, Maine, on March 12, 2013. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds exist to impose discipline on licensee Michael Loewinger.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were David Nyberg, Ph.D.; Louisa Barnhart, M.D.; David Andrews, M.D.; Maroulla Gleaton, M.D.; David Dumont, M.D.; Dana Dyer, Public Member; Cheryl Clukey, Public Member; David Jones, M.D.; and Chair Gary Hatfield, M.D. Dr. Loewinger was present. Dennis Smith, Esq., Assistant Attorney General, represented the State of Maine. Rebekah J. Smith, Esq., served as Presiding Officer. The hearing was held in accordance with the requirements of the Administrative Procedures Act, 5 M.R.S. § 9051 et seq.

Dr. Loewinger stipulated that he received the documents at State Exhibits #1, #2, #4 through #9, and #19. Dr. Loewinger stipulated that he received the messages documented at State Exhibit #3. Dr. Loewinger stipulated that the documents at State Exhibits #10 through #14 contained correct information. Finally, Dr. Loewinger stipulated that he received any document sent by certified mail that was signed for by his parents. The Board admitted into evidence State Exhibits #1 through #19 without objection. Both parties presented opening statements. The State presented Dr. Loewinger as a witness. Both parties made closing statements. The Board took

notice of its statutes and rules and confirmed that no members had any conflict of interest or bias relating to the licensee. The Board then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding Dr. Loewinger's alleged violation of the statutes and rules governing the State of Maine Board of Licensure in Medicine.

## **II. FINDINGS OF FACT**

1. Dr. Loewinger currently resides in Tarrytown, New York. (Testimony of Loewinger.) He previously resided at 7 Ditzel Farm Road in Scotch Plains, New Jersey, which was his childhood home in which his parents continue to reside. (Testimony of Loewinger.)
2. Dr. Loewinger currently practices general medicine at a hospital in Sleepy Hollow, New York. (Testimony of Loewinger.) He has been at that practice for approximately a year. (Testimony of Loewinger.)
3. Prior to his current practice, Dr. Loewinger worked in Maine, at the Maine State Prison, for a period of four or five weeks on a temporary basis. (Testimony of Loewinger.) It was his first job following his residency. (Testimony of Loewinger.)
4. On January 6, 2012, Dr. Loewinger was granted an emergency license as a medical doctor by the Board. (State Exh. #11.) On February 1, 2012, Dr. Loewinger was granted a regular license with an expiration date of October 31, 2013. (State Exh. #11.)
5. On April 12, 2012, by certified mail, the Board sent Dr. Loewinger a copy of Complaint CR12-40 and requested a response. (State Exh. #2.) The letter also informed Dr. Loewinger that he was required to respond to the complaint within 30 days. (State Exh. #2.)
6. Dr. Loewinger was practicing in Sleepy Hollow at the time that he received the Board's April 12, 2012, letter and a copy of Complaint CR12-40. (Testimony of Loewinger.) He

had never before, and has not since, received a complaint from a licensing board.

(Testimony of Loewinger.)

7. On May 24 and May 25, 2012, Board staff left voicemail messages for Dr. Loewinger.

(State Exh. #3.)

8. On June 8, 2012, the Board emailed Dr. Loewinger to inform him that although more than 30 days had passed since the certified mail letter dated April 12, 2012, was accepted and signed for, the Board had not received a response to the complaint from Dr. Loewinger.

(State Exh. #4.)

9. On June 19, 2012, Board staff left a voicemail message for Dr. Loewinger. (State Exh. #3.)

10. On July 19, 2012, the Board wrote to Dr. Loewinger to inform him that at its meeting on July 10, 2012, the Board had reviewed information presented by Board staff regarding his failure to respond to the complaint. (State Exh. #5.) The Board noted that it had not received any response to its letter and multiple email and phone messages to Dr. Loewinger. (State Exh. #5.) In the letter, the Board informed Dr. Loewinger that it had voted to issue a complaint against him, Complaint CR12-126, alleging unprofessional conduct and a violation of the Board's statutes based on his failure to respond to the notice of complaint. (State Exh. #5.) The letter reiterated Dr. Loewinger's statutory obligation to respond to the new complaint against him within 30 days. (State Exh. #5.)

11. On September 12, 2012, the Board notified Dr. Loewinger that the original complaint, Complaint CR12-40, had been dismissed after the Board's review of the complaint and related records. (State Exh. #6.)

12. Also on September 12, 2012, the Board notified Dr. Loewinger that it had voted to conduct an adjudicatory hearing in the matter of Complaint CR12-126 regarding his failure to

respond to Complaint CR12-40. (State Exh. #7.)

13. On January 18, 2013, the Board sent by certified mail a notice of hearing to Dr. Loewinger indicating that the hearing in this matter had been scheduled for March 12, 2013. (State Exh. #1.)

14. March 7, 2013, Board staff emailed Dr. Loewinger to ask if he planned to attend the March 12 hearing. (State Exh. #19.) The same day, Dr. Loewinger emailed a response indicating that he would be attending. (State Exh. #19.)

15. Dr. Loewinger testified that he did not respond to communications from the Board because he was distracted trying to locate employment. (Testimony of Loewinger.) Dr. Loewinger testified that he believed his behavior was irresponsible and that he did not have an excuse for his failure to respond. (Testimony of Loewinger.) Dr. Loewinger attended the hearing in order to take responsibility for his lack of response. (Testimony of Loewinger.) Dr. Loewinger testified that he would not fail to respond to a letter from a licensing board in the future. (Testimony of Loewinger.)

### **III. GOVERNING STATUTES AND RULES**

1. A licensee of the State of Maine Board of Licensure in Medicine must respond to a complaint within 30 days. 32 M.R.S. § 3282-A(1).
2. The State of Maine Board of Licensure in Medicine may modify, restrict, suspend, revoke or refuse to renew a license if the licensee engaged in unprofessional conduct. 32 M.R.S. § 3282-A(2)(F). A licensee is considered to have engaged in unprofessional conduct if he violates a standard of professional behavior that has been established in the practice for which he is licensed. 32 M.R.S. § 3282-A(2)(F).

3. The State of Maine Board of Licensure in Medicine may modify, restrict, suspend, revoke or refuse to renew a license if the licensee committed a violation of statutes governing the Board or a rule adopted by the Board. 32 M.R.S. § 3282-A(2)(H).
4. The State of Maine Board of Licensure in Medicine may issue letters of guidance or concern to a licensee. 10 M.R.S. § 8003(5)(E). A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. 10 M.R.S. § 8003(5)(E).
5. The State of Maine Board of Licensure in Medicine may impose on the licensee a civil penalty of up to \$1,500 for each violation of applicable laws, rules and conditions of licensure. 10 M.R.S. § 8003(5)(A-1)(3).
6. The State of Maine Board of Licensure in Medicine may impose on the licensee the actual expenses it occurred for the investigation and prosecution of a matter. 10 M.R.S. § 8003-D.

#### **IV. CONCLUSIONS OF LAW**

The Board, considering the above facts and those alluded to in the record but not referred to herein, concluded that it had jurisdiction over the licensee and determined as follows:

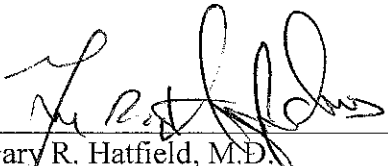
1. By a vote of 9-0, that Dr. Michael Loewinger engaged in unprofessional conduct by not responding to Board communications in violation of 32 M.R.S. § 3282-A(1).
2. By a vote of 9-0, that a fine of \$500 for each violation (a total of \$1,000) would be imposed on Dr. Loewinger.
3. By a vote of 9-0, that Dr. Michael Loewinger failed to respond to a complaint within 30 days in violation of 32 M.R.S. § 3282-A(2)(H)., but determined that this did not rise to a

level of discipline, and by a vote of 9-0, that a letter of guidance should be issued to Dr. Loewinger.

4. By a vote of 9-0, that the actual costs of \$1,683.56 for this proceeding would be imposed on Dr. Loewinger.

So Ordered.

Dated: April 9, 2013

  
\_\_\_\_\_  
Gary R. Hatfield, M.D.  
Chair, State of Maine Board of Licensure in Medicine

#### **V. APPEAL RIGHTS**

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the District Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.



STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re:	)	FIRST AMENDMENT TO
Patrick S. Carson, P.A.-C	)	CONSENT AGREEMENT
Complaint No. CR11-509	)	
	)	

This document is a First Amendment to a Consent Agreement for Conditional Licensure effective June 12, 2012, regarding a disciplinary action against and conditions imposed upon the license to practice as a physician assistant in the State of Maine held by Patrick S. Carson, P.A.-C. The parties to this First Amendment of that Consent Agreement are: Patrick S. Carson, P.A.-C ("Mr. Carson"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Office of the Attorney General (the "Attorney General"). This First Amendment to Consent Agreement is entered into pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5).

**BACKGROUND**

1. On June 12, 2012, the parties entered into a Consent Agreement regarding a disciplinary action and conditions imposed upon the license to practice medicine in the State of Maine held by Patrick S. Carson, P.A.-C

2. In the Consent Agreement, Mr. Carson agreed to the following:

a. Paragraph 10(b)(4)(c):

Single Primary Care Medical Provider. Within thirty (30) days following the execution of this Consent Agreement, Mr. Carson shall submit for Board approval the name of a primary care medical provider who shall prescribe all necessary medications for Mr. Carson, and who shall coordinate Mr. Carson's treatment and pharmacological therapy with the Board-approved substance abuse and psychological providers. Such physician shall be knowledgeable of Mr. Carson's medical history, including his substance abuse history. The Board shall retain the sole discretion, without hearing, to grant or deny approval of the primary care medical provider proposed by Mr. Carson. Mr. Carson acknowledges that any decision by the Board concerning this issue is not appealable.

b. Paragraph 10(b)(4)(h):

Reports from Treatment Providers. Mr. Carson shall ensure that on or before September 9<sup>th</sup>, December 9<sup>th</sup>, March 9<sup>th</sup> and June 9<sup>th</sup> of each year following the execution of this Consent Agreement the Board-approved treatment provider(s) submit(s) to the Board a written report regarding: Mr. Carson's compliance with his schedule of meetings; Mr. Carson's ability to continue practicing medicine; and the prognosis of Mr. Carson's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Mr. Carson poses a potential danger to the health, safety and welfare of patients; or (2) Mr. Carson terminates treatment or is non-compliant with the treatment plan. Mr. Carson hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

3. On March 7, 2013, Mr. Carson met with Board staff to clarify the terms and conditions of his consent agreement. In particular, Mr. Carson wanted to know how frequently the Board wanted him to meet with his primary care provider. In addition, Board staff contacted Mr. Carson's counselor, who requested that her reports to the Board occur at the same time as her reports to the Maine Medical Professionals

Health Program (MPHP).

4. On April 9, 2013, the Board reviewed this matter and voted to offer Mr. Carson this amendment to his consent agreement in order to clarify his obligations under the consent agreement and simplify his counselor's reporting requirements.

**AMENDMENT**

5. Mr. Carson, the Board, and the Office of Attorney General hereby agree to amend the Consent Agreement dated June 12, 2012, by modifying paragraphs 10(b)(4)(c) and 10(b)(4)(h) to read as follows:

a. Paragraph 10(b)(4)(c): Single Primary Care Medical Provider. Within thirty (30) days following the execution of this Consent Agreement, Mr. Carson shall submit for Board approval the name of a primary care medical provider who shall prescribe all necessary medications for Mr. Carson, and who shall coordinate Mr. Carson's treatment and pharmacological therapy with the Board-approved substance abuse and psychological providers. Such physician shall be knowledgeable of Mr. Carson's medical history, including his substance abuse history. The Board shall retain the sole discretion, without hearing, to grant or deny approval of the primary care medical provider proposed by Mr. Carson. Mr. Carson acknowledges that any decision by the Board concerning this issue is not appealable. Mr. Carson shall meet with his Board-approved primary care medical provider at least once every six months following the execution of this amendment to the consent agreement.

b. Paragraph 10(b)(4)(h): Reports from Treatment Providers.

- (i) Mr. Carson shall ensure that on or before July 30<sup>th</sup>, October 30<sup>th</sup>, January 30<sup>th</sup>, and April 30<sup>th</sup> of each year following the execution of this amendment to the Consent Agreement the Board-approved treatment provider(s) submit(s) to the Board a written report regarding: Mr.

Carson's compliance with his schedule of meetings; Mr. Carson's ability to continue practicing medicine; and the prognosis of Mr. Carson's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Mr. Carson poses a potential danger to the health, safety and welfare of patients; or (2) Mr. Carson terminates treatment or is non-compliant with the treatment plan. Mr. Carson hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

- (ii) Mr. Carson shall ensure that on or before July 30<sup>th</sup> and January 30<sup>th</sup> of each year following the execution of this amendment to the Consent Agreement the Board-approved primary care treatment provider treatment provider submits to the Board a written report regarding Mr. Carson's current medical care, treatment and prognosis. In addition, the primary care treatment provider shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Mr. Carson poses a potential danger to the health, safety and welfare of patients; or (2) Mr. Carson terminates treatment or is non-compliant with the treatment plan. Mr. Carson hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

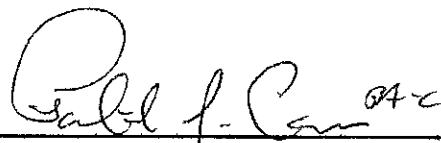
6. Mr. Carson acknowledges by his signature hereto that all other terms and conditions of the Consent Agreement effective June 12, 2012, remain in full force and effect.

7. Mr. Carson acknowledges by his signature hereto that he has read this First Amendment to Consent Agreement, that he has had an opportunity to consult with an attorney before executing this First Amendment, that he executed this First Amendment of his own free will

and that he agrees to abide by all terms and conditions set forth herein.

**I, PATRICK S. CARSON, P.A.-C, HAVE READ AND UNDERSTAND THE FOREGOING FIRST AMENDMENT TO CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS REGARDING THIS AMENDMENT. I ALSO WAIVE THE RIGHT TO APPEAL TO THE COURT REGARDING THIS AMENDMENT. KNOWING THIS, I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS FIRST AMENDMENT, TOGETHER WITH THE CONSENT AGREEMENT, CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS AMENDMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.**

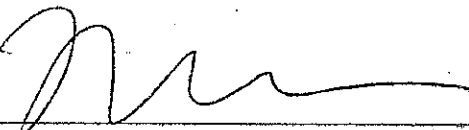
Dated: April 18 2013

  
PATRICK S. CARSON, P.A.-C

STATE OF MAINE

\_\_\_\_\_, SS.

Before me this 18<sup>th</sup> day of April, 2013,  
personally appeared Patrick S. Carson, P.A.-C, who after first being duly  
sworn, signed the foregoing First Amendment to Consent Agreement in  
my presence or affirmed that the signature above is his own.

  
\_\_\_\_\_  
Notary Public/Attorney at Law  
My commission expires:

FREDERICA JACKSON  
Notary Public, Maine  
My Commission Expires May 1, 2015

STATE OF MAINE  
BOARD OF LICENSURE IN  
MEDICINE

DATED:

4/23/13

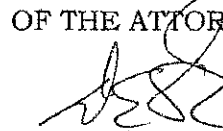


GARY R. HATFIELD, M.D.,  
Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED:

4/23/13



DENNIS E. SMITH  
Assistant Attorney General

Effective Date:

4/23/13

## APPENDIX C

### STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

IN RE: )  
CATHERINE A. LOCKWOOD, M.D. ) CONSENT AGREEMENT  
Complaint Nos. CR11-479/CR12-22 )  
)

This document is an amendment to a Consent Agreement dated November 13, 2012, effective when signed by all parties, regarding discipline imposed upon the license to practice medicine in the State of Maine to Catherine A. Lockwood, M.D. The parties to this amended Consent Agreement are: Catherine A. Lockwood, M.D. ("Dr. Lockwood"), the State of Maine Board of Licensure in Medicine (the "Board") and the Maine Office of the Attorney General.

#### STATEMENT OF FACTS

1. The Board first issued Dr. Lockwood a medical license on June 2, 2003. Dr. Lockwood specializes in Family Practice.
2. On September 26, 2011, the Board received information from a physician assistant who was concerned about Dr. Lockwood's prescribing of controlled drugs to patient X. According to the physician assistant, on September 23, 2011, he examined patient X, a former patient of Dr. Lockwood's, who appeared to be suffering from medication toxicity. The Board staff subsequently obtained a prescription profile for patient X from the Prescription Monitoring Program (PMP), and a copy of patient X's medical

records.

3. On November 8, 2011, the Board reviewed the foregoing information and voted to initiate a complaint against Dr. Lockwood's Maine medical license pursuant to 32 M.R.S. § 3282-A(2) alleging inappropriate prescribing practices regarding patient X. The Board docketed the complaint as Complaint No. CR11-479 and sent it to Dr. Lockwood for a response.

4. On January 19, 2012, the Board received a response from Dr. Lockwood to Complaint No. CR11-479. According to Dr. Lockwood, during her care and treatment of patient X, the patient never demonstrated any symptoms of medication toxicity with the exception of one occasion when the patient was dehydrated and presyncopal and was transported by ambulance to the hospital. Dr. Lockwood described her care and treatment of patient X, including her medical rationale for prescribing increasing dosages of controlled drugs, which included a combination of narcotics and benzodiazepines.

5. On February 14, 2012, the Board reviewed Complaint No. CR11-479, including Dr. Lockwood's response and all investigative records. Following its review, the Board voted to further investigate the matter by obtaining additional patient records of Dr. Lockwood. The Board staff subsequently obtained through subpoena an additional five (5) patient records for the Board.

6. On February 14, 2012, the Board also reviewed additional information received from the Maine Office of Attorney General and the Maine



Drug Enforcement Agency regarding Dr. Lockwood's prescribing of controlled drugs to patient Y. The information reviewed also included a copy of the PMP regarding patient Y, and a copy of patient Y's medical records. Following its review of this information, the Board voted to initiate a complaint against Dr. Lockwood's Maine medical license pursuant to 32 M.R.S. § 3282-A(2) alleging inappropriate prescribing practices regarding patient Y. The Board docketed the complaint as Complaint No. CR12-22 and sent it to Dr. Lockwood for a response.

7. On April 24, 2012, the Board received a response from Dr. Lockwood to Complaint No. CR12-22. In her response, Dr. Lockwood described her care and treatment of patient Y, including her medical rationale for prescribing increasing dosages of controlled drugs, which included a combination of narcotics and benzodiazepines. In addition, Dr. Lockwood explained that she was no longer practicing primary care medicine, and was practicing urgent care medicine at a new location, which would obviate the need for her to prescribe controlled drugs for the treatment of chronic pain.

8. In May 8, 2012, the Board reviewed Complaint No. CR11-479 and Complaint No. CR12-22, both of which involved Dr. Lockwood's prescribing of controlled drugs for the treatment of chronic pain. During its review, the Board noted that while Dr. Lockwood appeared to care about the pain that her patients suffered, she ended up treating patients using poly-pharmacy without having a sufficient plan in place. In addition, the Board noted that Dr.

Lockwood: increased at times dosages of controlled drugs despite her plan to decrease the dosages; did not consistently conduct pill counts; at times did not conduct urine drug screens; failed to discontinue controlled substance prescriptions when urine drug screens were positive for marijuana (Dr. Lockwood never prescribed marijuana to patients); and the patient treatment records did not evidence the frequency of physical examinations of patients as required to assess the functionality of the patients with chronic pain. Following its review and discussion the Board voted to schedule an informal conference with Dr. Lockwood regarding Complaint Nos. CR11-479 and CR12-22 concerning the following issues: chronic pain management; choice of medications; tools to manage narcotics; use of follow-up plans; use of poly-pharmacy; examinations and documentation of examinations; and general care, treatment and medical record documentation.

9. On October 9, 2012, the Board held an informal conference with Dr. Lockwood regarding Complaint Nos. CR11-479 and CR12-22. Following the informal conference, the Board voted to schedule the matters for an adjudicatory hearing and offer Dr. Lockwood a Consent Agreement to resolve Complaint Nos. CR11-479 and CR12-22 without further proceedings.

10. On November 13, 2012, the parties entered into a consent agreement that resolved Complaint Nos. CR11-479 and CR12-22 without further proceedings. The consent agreement imposed discipline and a restriction upon Dr. Lockwood's ability to prescribe controlled medications for

more than ten consecutive days.

11. On March 28, 2013, the Board received a request from Dr. Lockwood to amend the consent agreement to delete the restriction on her ability to prescribe controlled drugs for more than ten consecutive days. In support of her request, Dr. Lockwood submitted:

a. Documentation that certain third party payers were in the process of de-credentialing her ability to treat patients insured by them, which would result in the termination of her employment;

b. Documentation that she intends to remain in her current employment, an acute care clinic, in which she provides no chronic pain care and would not be prescribing any controlled drugs for the treatment of chronic pain; and

c. Documentation that she intends to obtain continuing medical education regarding principles and practices of pain management.

12. On April 9, 2013, the Board reviewed Dr. Lockwood's request to amend the consent agreement. Following its review, and in complete reliance upon all of the representation that Dr. Lockwood made in her request, the Board voted to amend the consent agreement by deleting the restriction upon Dr. Lockwood's ability to prescribe controlled drugs for more than ten consecutive days.

### COVENANTS

The Board and Dr. Lockwood agree to the following:

13. With regard to Complaint Nos. CR11-479 and 12-22 Dr. Lockwood concedes that the Board has sufficient evidence from which it could conclude that she failed to adhere to Board Rule Chapter 21 "Use of Controlled Substances For Treatment of Pain" and to current "Universal Precautions" for the treatment of patients for chronic, non-cancer pain. Dr. Lockwood concedes that such conduct, if proven, would constitute grounds for discipline of her Maine medical license for unprofessional conduct pursuant to 32 M.R.S. § 3282-A(2)(F).

14. As discipline for the conduct admitted above, Dr. Lockwood agrees to:

a. Accept a REPRIMAND. As a medical professional, Dr. Lockwood was responsible for being aware of and complying with accepted standards of care for the diagnosis and treatment of chronic pain with narcotics and benzodiazepines.

b. Reimburse the Board the actual costs of investigation not to exceed Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00). Dr. Lockwood shall ensure that she makes full payment of reimbursement to the Board within eighteen (18) months following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine," and be remitted to Maria

MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

15. To the extent that Dr. Lockwood prescribes any controlled drugs to patients for acute pain, Dr. Lockwood agrees that she shall comply with Board Rule, Chapter 21, "Use of Controlled Substances For Treatment of Pain." Dr. Lockwood agrees to fully cooperate with the Board and to permit the Board or its agent(s) to inspect her medical practice, including allowing the Board or its agents full access to and copying of the patient medical records of her medical practice as allowed by law.

16. Dr. Lockwood waives her right to a hearing before the Board or any court regarding all findings, terms, and conditions of this amended Consent Agreement. Dr. Lockwood agrees that this amended Consent Agreement is a final order resolving complaint Nos. CR11-479 and CR12-22. This amended Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing by the parties hereto. This amended Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General.

17. The Board and the Maine Office of the Attorney General may communicate and cooperate regarding Dr. Lockwood or any other matter relating to this amended Consent Agreement.

18. This amended Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by

the public pursuant to 1 M.R.S. § 408. This amended Consent Agreement constitutes disciplinary and adverse licensing action that is reportable to the Federation of State Medical Boards (FSMB), the National Practitioner Data Bank (NPDB), and the Healthcare Integrity and Protection Data Bank (HIPDB).

19. Nothing in this amended Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

20. The Board and Dr. Lockwood agree that no further agency or legal action will be initiated against her by the Board based upon Complaint Nos. CR11-479 and CR12-22, except or unless she fails to comply with the terms and conditions of this amended Consent Agreement.

21. Dr. Lockwood acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), her failure to comply with any of the terms or conditions of this amended Consent Agreement shall constitute grounds for additional disciplinary action against her Maine medical license, including but not limited to an order, after hearing, suspending or revoking her license.

22. Dr. Lockwood acknowledges and agrees that, pursuant to Title 10 M.R.S. § 8003(5), the Board has the authority to suspend or revoke her medical license in the event that she fails to comply with any terms or conditions of this amended Consent Agreement.

23. Dr. Lockwood has been represented by Kenneth W. Lehman, Esq., who has participated in the negotiation of this amended Consent Agreement.

24. Dr. Lockwood acknowledges by her signature hereto that she has

read this amended Consent Agreement, that she has had an opportunity to consult with an attorney before executing this amended Consent Agreement, that she executed this amended Consent Agreement of her own free will and that she agrees to abide by all terms and conditions set forth herein.

**I, CATHERINE A. LOCKWOOD, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AMENDED CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS AMENDED CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS AMENDED CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.**

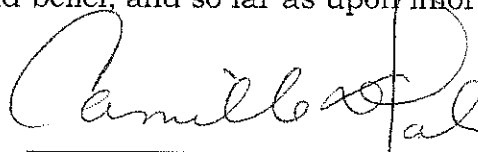
Dated: 4/10/13

  
CATHERINE A. LOCKWOOD, M.D.

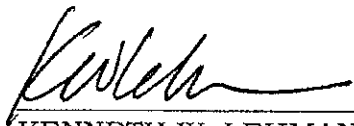
STATE OF New York, S.S.

Personally appeared before me the above-named, Catherine A. Lockwood, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

Dated: 4-16-13


  
NOTARY PUBLIC/ATTORNEY  
MY COMMISSION ENDS: 2/28/14  
CAMILLE DI SALVO  
Notary Public, State of New York  
No. 01D14752073  
Qualified in Westchester County  
Commission Expires 2-28-14

Dated: 4.17.2013

  
KENNETH W. LEHMAN, ESQ.  
Attorney for Catherine A. Lockwood, M.D.

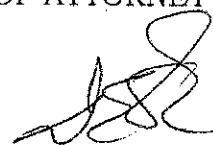
STATE OF MAINE BOARD OF  
LICENSURE IN MEDICINE

Dated: 4/23/13

  
\_\_\_\_\_  
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF ATTORNEY GENERAL

Dated: 4/23/13

  
\_\_\_\_\_  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 4/23/13



STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re:	)	CONSENT
Deep S. Acharya, M.D.	)	AGREEMENT
Complaint No. CR12-177	)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice as a physician in the State of Maine held by Deep S. Acharya, M.D.. The parties to the Consent Agreement are: Deep S. Acharya, M.D. ("Dr. Acharya"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Dr. Acharya a license to practice as a physician in the State of Maine on September 14, 2011. At all times relevant to this complaint, Dr. Acharya was licensed as a physician by the Board.

2. On September 11, 2012, the Board reviewed information regarding an investigation conducted by the Maine Department of Health and Human Services (DHHS) Licensing and Regulatory Services regarding the death of a patient who had been treated at a Maine hospital in February 2012. Following its review of this information, the Board voted to initiate a complaint against Dr. Acharya's physician license pursuant to 32 M.R.S. § 3282-A alleging incompetence and unprofessional conduct based upon Dr. Acharya's failure to reconcile the medications when he reviewed the patient's chart, which included an incorrect medication and excessive dosage that was subsequently administered to the patient. The Board docketed the complaint as CR12-177 and sent it to Dr. Acharya for a written response.

3. On or about October 22, 2012, the Board received a response from Dr. Acharya to complaint CR12-177. In his response, Dr. Acharya described his care of the patient in the Emergency Department (ED) on two separate occasions. Dr. Acharya indicated that the patient was discharged from the hospital on February 7, 2012, and brought back to the ED on February 8, 2012 due to a change in mental status/decreased responsiveness. Dr. Acharya described his examination and medical decision making regarding the patient, including his presumption that the discharge medications from the hospital on February 7, 2012, were what were specifically planned for the patient. Dr. Acharya admitted that he did not pick up on the fact that an incorrect medication and excessive dosage had been prescribed for the patient upon her discharge on February 7, 2012. As a result, after performing a number of medical tests, Dr. Acharya concluded that there were no acute abnormalities that would have benefitted from re-hospitalization, and chose to discharge the patient back to the nursing home with instructions to return if the patient's symptoms worsened.

4. On December 11, 2012, the Board reviewed complaint CR12-177, and voted to further investigate it by sending Dr. Acharya additional questions to answer.

5. On January 7, 2013, the Board received a written response from Dr. Acharya to its additional questions. In his response, Dr. Acharya admitted that drugs, either prescribed medicines or any street drugs/toxins/alcohol can potentially alter a patient's mental state. Dr. Acharya admitted that the incorrect drug and excessive dosage did not strike his attention when he examined the MAR as he was not familiar with the usual doses of the drug and had presumed that the medication was in accordance with what a neurologist would have wanted. Dr. Acharya admitted that looking back he would have paid more attention to the medication reconciliation process, which would have helped him identify the abnormal drug dosing. In addition, Dr.

Acharya admitted that he should not have presumed that whatever was on the MAR was what the discharging physician intended the patient to be on.

6. On February 12, 2013, the Board reviewed complaint CR12-177, including Dr. Acharya's responses to the complaint and the relevant medical records and voted to offer Dr. Acharya this Consent Agreement in order to resolve complaint CR12-177 without further proceedings.

7. This Consent Agreement has been negotiated by legal counsel for Dr. Acharya and legal counsel for the Board in order to resolve complaint CR12-177 without further proceedings, including an adjudicatory hearing. Absent Dr. Acharya's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 23, 2013, the matter will be presented to the Board for further action.

8. By signing this Consent Agreement, Dr. Acharya waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

#### COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Acharya and the Board agree to the following :

9. Dr. Acharya admits that with regard to complaint CR12-177 the Board has sufficient evidence from which it could reasonably conclude that he failed to reconcile the MAR when the patient was brought to the ED on February 8, 2012, which included an incorrect medication and excessive dosage, which incorrect medication was subsequently administered to

the patient in the incorrect and excessive dosage. Dr. Acharya admits that such conduct constitutes unprofessional conduct and incompetence and grounds for discipline pursuant to 32 M.R.S. § 3286(2)(F) and (E).

10. As discipline for the conduct described in paragraphs 1-9 above pertaining to complaint CR12-177, Dr. Acharya agrees to accept, and the Board agrees to issue, the following discipline:

a. A REPRIMAND. In this case, by failing to perform a medication reconciliation of the medications prescribed to the patient on February 7, 2012, following the patient's return to the ED on February 8, 2012, for a change in mental status/decreased responsiveness. Had Dr. Archarya performed a medication reconciliation, he may have discovered that the medication that had been inappropriately prescribed to the patient on February 7, 2012, was at an excessive dosage and contraindicated not only because of its potential harm to the patient due to the excessive dosage, but because of its potential to adversely interact with the medications that the patient was already receiving. Although Dr. Acharya acknowledged that he should not have presumed that whatever was on the MAR was what the discharging physician meant to prescribe to the patient, the Board urges him to ensure that this type of error does not occur again.

b. A MONETARY FINE of One Thousand Dollars and Zero Cents (\$1,000.00). Dr. Acharya shall ensure that he pays the monetary penalty within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

11. Violation by Dr. Acharya of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

12. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Acharya agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of his license, in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

13. Dr. Acharya waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Acharya agrees that this Consent Agreement and Order is a final order resolving complaint CR12-177. This Consent Agreement is not appealable and is effective until modified or rescinded by agreement of all of the parties hereto.

14. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Acharya or any other matter relating to this Consent Agreement.

15. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

16. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

17. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

18. The Board and Dr. Acharya agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar true allegations are brought against Dr. Acharya in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Acharya's Maine physician license.

19. Dr. Acharya has been represented by Melissa Reynolds O'Dea, Esq., who has participated in the negotiation of this Consent Agreement on his behalf.

20. Dr. Acharya acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

21. For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

**I, DEEP S. ACHARYA, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.**

DATED:

04/08/2013

  
\_\_\_\_\_  
DEEP S. ACHARYA, M.D.

STATE OF MAINE

KENNEBEC, S.S.

Personally appeared before me the above-named Deep S. Acharya, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

4/8/2013

Melissa R. O'Dea #8308  
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: N/A

DATED:

4/8/2013

Melissa R. O'Dea  
MELISSA REYNOLDS O'DEA, ESQ.  
ATTORNEY FOR DR. ACHARYA

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED:

4/9/13

Gary R. Hatfield  
GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED:

4/9/13

Dennis E. Smith  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date:

4/9/13